

### **REMARKS**

Applicant has carefully reviewed and considered the Office Action mailed on November 15, 2002, and the documents cited therewith.

Claims 1-9 and 24-48 are canceled, as a result, claims 10-23 are now pending in this application. No new subject matter is added.

The following paragraphs correspond to those of the official action.

#### **Information Disclosure Statement**

Applicants are enclosing a copy of the previously submitted 1449 Form, together with a copy of the document which was marked "not available" by the Examiner and respectfully request that a copy of the 1449 Form, marked as being considered and initialed by the Examiner, be returned with the next official communication. Applicants do not believe that a fee is due for the submission of these documents.

#### **Rejection under 35 U.S.C. §112**

1. Claims 1-9 were rejected under 35 USC § 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicants respectfully traverse this rejection.

In order to expedite prosecution of the instant application claims 1-9 are cancelled. Applicants reserve the right to pursue the cancelled subject matter in a continuing application. it is respectfully requested that the rejection under 35 U.S.C. §112 be withdrawn.

#### **Double Patenting**

2. Claims 1, 6, 10, 11, 14 and 15 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1, 6, 12 and 20 of co-pending Application Serial No. 09/360,020; and over claims 1, 3, 4 and 13 of co-pending Application Serial No. 09/589,476. This rejection is respectfully traversed.

Applicants note that claims 1 and 6 are cancelled. In order to expedite the prosecution of the instant application, while not conceding the obviousness of any of the pending

claims over the claims of co-pending Application Serial No. 09/360,020; or over claims 1, 3, 4 and 13 of co-pending Application Serial No. 09/589,476, Applicants enclose herewith a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(b)(iv) to overcome this rejection. The Examiner is requested to note that Applicants are disclaiming the terminal part of the statutory term of any patent grant on the above-identified patent application (09/634,207), which would extend beyond the expiration date of the full statutory term, of the first to expire of the patents to issue from Application serial No. 09/360,020 or Application Serial No. 09/589,476. Applicants note that Application Serial No. 09/589,476 is not yet allowed.

It is respectfully submitted that the rejection for obviousness-type double patenting is overcome and its withdrawal is requested.

#### Claims Objections

3. Applicants note with appreciation the Examiner's indication that claims 12, 13 and 16-23 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants note that the base claim (Claim 10 ) was only objected to for obviousness-type double patenting. It is respectfully submitted that the objection for obviousness-type double patenting objection is overcome and the pending claims should pass to allowance.

#### Non-elected Subject Matter

4. This Examiner asserts the application contains claims 24-48 drawn to an invention non-elected with traverse in Paper No. 7. Applicants have cancelled claims 24-48 herein.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney 612-373-6968 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date March 17, 2003

By William F. Prout  
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Box AF, Commissioner of Patents, Washington, D.C. 20231, on this 17<sup>th</sup> day of March, 2003

Dawn M. Poole

Name

Dawn M. Poole

Signature